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Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 3 November 2003 (S/2003/1065). The Counter-Terrorism Committee has received the attached fourth report from South Africa submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 27 February 2004 from the Permanent Mission of South Africa to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Representative of the Republic of South Africa to the United Nations presents his compliments to the Chairperson of the Committee established pursuant to Security Council resolution 1373 (2001) and has the honour to respond to the points raised in the latter's letter dated 22 October 2003. The enclosure attached herewith constitutes the fourth report of the Government of South Africa on the steps taken to implement resolution 1373 (2001) (see enclosure).

Enclosure*

SOUTH AFRICA'S REPLY TO THE LETTER DATED 22 OCTOBER 2003 RECEIVED FROM THE CHAIRPERSON OF THE SECURITY COUNCIL'S COUNTER-TERRORISM COMMITTEE, AMBASSADOR I.F. ARIAS, CONTAINING COMMENTS ON SOUTH AFRICA'S NATIONAL REPORT (S/2003/272) SUBMITTED PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1373 (2001)

1. IMPLEMENTATION MEASURES

1.1 The CTC would be grateful for a report on the implementation in domestic law of the relevant conventions and protocols relating to terrorism to which South Africa has already become a party, as well as on the prospects of South Africa's joining the relevant conventions and protocols relating to terrorism to which South Africa has yet to become a party. In addition, could South Africa provide the CTC with information concerning the penalties prescribed for the offences created in accordance with the requirements of the said international instruments.

Implementation in domestic law of relevant conventions and protocols relating to terrorism

The Anti-Terrorism Bill is intended to provide the legislative mechanism to implement all the counter-terrorism conventions. The Anti-Terrorism Bill, the title of which was changed during the parliamentary debates to the "Protection of Constitutional Democracy against Terrorist and Related Activities Bill" (POCDATARA), has not yet been finalised. No details can be given on the nature of the offences and the penalties, as amendments to the penalties are not ruled out at this stage. In general, it can be reported that the Bill takes into account the obligation to reflect the severity of the offences involved and the Bill presently provides for a range of sentences, inter alia, imprisonment for life and, in instances where the legislature considers appropriate, for fines to a maximum of R100 million.

The National Assembly of the South African Parliament passed the Bill on Thursday, 20 November 2003. The National Council of Provinces, being the Second House of Parliament, will consider the Bill early in 2004.

In addition to the POCDATARA there is separate legislation to implement the counter-terrorism conventions, such as the Civil Aviation Offences Act, 1972 (Act No.10 of 1972), the Civil Aviation Safety Regulations of 1981 and the Nuclear Energy Act, 1999 (Act No.46 of 1999). (Please see South Africa's National Reports S/2001/1281 and S/2002/792).

The Civil Aviation Authority, for example, has engaged in an extensive review of Aviation Security regulations, which included the drafting of amendments to the Safety (Security) Regulations and the Civil Aviation Offences Act in order to align with the standards and recommended practices of the Annex 17 (Aviation Security) to the Chicago Convention. The regulatory amendments will be forwarded to the Minister of Transport for approval in 2004, and the amendments to the Offences Act

* Annexes are on file with the Secretariat and are available for consultation.

will have to be forwarded to Parliament for approval.

In response to the question of penalties, violations of the provisions of the Nuclear Energy Act, which currently governs nuclear material carries a maximum prison sentence of 10 years for illegal possession of nuclear material. Acts of Terrorism arising from such possession are dealt with in terms of existing legislation.

United Nations Counter-Terrorism Conventions

South Africa has ratified or acceded to nine of the twelve United Nations Counter-Terrorism Conventions and is in the process of acceding to or ratifying the remaining three conventions, namely:

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation done at Rome on 10 March 1988 (33 State Parties); entered into force 1 March 1992.

- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Sheif, done at Rome on 10 March 1988 (31 State Parties); entered into force 1 March 1992.

- Convention on the Physical Protection of Nuclear Materials, adopted at Vienna on 26 October 1979 (55 State Parties) (South Africa has signed this Convention on 18 May 1981); entered into force 8 February 1987.

A. Effectiveness in the protection of the financial system

1.2	Sub-paragraph 1 (a) requires States to prevent and suppress the financing of terrorist acts. The CTC is pleased to note the role played by South Africa in developing the Kimberley Process with a view to suppressing the trade in conflict diamonds. In that regard, could South Africa provide the CTC with an update on the implementation of the Kimberley process and its effect on the financing of terrorism?

The Kimberley Process

The primary purpose of the Kimberley Process Certification Scheme (KPCS) is to prevent conflict diamonds from being sold on the legitimate diamond market. It is not specifically designed to counter terrorism, although it has the effect of helping to prevent terrorist use of diamonds as a source of finance.

Update on the Implementation of the Kimberley Process

During the tenure of South Africa as the Chair of the Kimberley Process Certification Scheme (KPCS), international implementation has continued to be guided by the objectives on which it was founded, namely:

(a) To stem the flow of rough diamonds used by rebels to finance armed conflict aimed at overthrowing legitimate governments, thereby making a substantial contribution to international peace and security; and

(b) To protect the legitimate diamond trade, upon which many countries are dependent for their economic and social development.

The KPCS seeks to achieve the above through the creation and implementation of an international certification scheme for rough diamonds, based primarily on national certification schemes and on internationally agreed minimum standards.

Over the last year, significant progress has been achieved in the implementation of the KPCS:

- The simultaneous international implementation of the KPCS started on 1 January 2003. In recognition of implementation challenges being faced by certain countries, a "tolerance period" for national implementation of the KPCS was extended to 31 May 2003.

- On 15 May 2003 the World Trade Organisation's General Council approved that a waiver be granted to those countries implementing the KPCS and indicating that they required such a waiver.

- A Review Mission visited the Central African Republic from 8 to 15 June 2003, and reported that they were satisfied with that country's ability and capacity to implement the KPCS, while, at the same time, offering constructive suggestions for the strengthening of internal monitoring and controls.

- The various Working Groups of the KPCS have functioned effectively and are helping to strengthen the implementation of the Scheme. In particular, a recommendation was adopted that provides for the establishment of a peer review mechanism for monitoring implementation of the Scheme. Based on a combination of self-reporting and the use of 'review visits' and 'review missions' to Participants, this peer review mechanism will help guarantee that the provisions of the KPCS are effectively implemented by all Participants.

- The further widening of participation in the KPCS and the overall strengthening of the Scheme was encouraged and facilitated. Several administrative and implementation issues were successfully addressed during 2003. Participation in the KPCS has increased significantly.

South Africa has been chairing the KPCS since its inception in May 2000. The Chair passed to Canada on 1 January 2004 for one year, after which it will pass to the Russian Federation, the 2004 Vice Chair, for the 2005 calendar year.

A Participation Committee was established to examine the documentation provided by Participants in order to determine whether they meet the minimum standards of the Kimberley Process. The following States and Regional Economic Integration Organisations were certified on 31 October 2003 as Participants in the KPCS, having satisfied the minimum requirements of the Scheme: Angola, Armenia, Australia, Belarus, Botswana, Brazil, Bulgaria, Canada, Central African Republic, China, People's Republic of, Congo, Democratic Republic of, Congo, Republic of, Côte D' Ivoire, Croatia, European Community, Guinea, Guyana, Hungary, India,

Israel, Japan, Korea, Republic of, Laos, People's Republic of, Lebanon, Lesotho, Malaysia, Mauritius, Namibia, Poland, Romania, Russian Federation, Sierra Leone, Slovenia, South Africa, Sri Lanka, Switzerland, Tanzania, Thailand, Togo, Ukraine, United Arab Emirates, United States of America, Venezuela, Vietnam, Zimbabwe.

In addition, the rough diamond trading entity known as Chinese Taipei was also assessed to have met the minimum requirements of the KPCS and began implementing the Scheme with effect from 10 May 2003, within the context of ongoing consultations regarding the definitions of a Participant and an Observer.

Several other States have submitted notices of intent to become Participants in the KPCS in the near future and are in the process of submitting the relevant documentation to the Participation Committee.

The organised diamond industry represented by the World Diamond Council, and civil society organisations remain actively involved in the KPCS and attended Plenary meetings as Observers.

As the Chair, South Africa hosted two successful Plenary meetings of the KPCS since the adoption of Resolution 57/302 (2003):

- In Johannesburg, South Africa, from 28 to 30 April 2003; and
- In Sun City, South Africa, from 29 to 31 October 2003.

The Kimberley Process continues to enjoy widespread, growing support and now represents all major diamond producing, trading and processing countries. Ongoing support for the KPCS also helps to promote the legitimate diamond trade, upon which a significant number of countries are dependent for their economic and social development.

The Kimberley Process required revised import and export procedures for Diamonds, which incorporate the responsibilities imposed by the "Kimberley Process Certification Scheme". South African Customs accordingly adopted a policy and procedure regarding the import and export procedures for diamonds. The Certification Scheme involves the issuance of a forgery resistant document that identifies a consignment of unpolished diamonds as being in compliance with the requirements of the Kimberley Process Certification Scheme, and which in relation to export, is issued and validated by the South African Diamond Board and in relation to import is issued and validated by the exporting authority of a participant[1] to the process. The Kimberley Process Certification Scheme is only applicable to unpolished diamonds and the provisions of the scheme apply only to these diamonds and not to finished diamonds. Finished/Polished diamonds are to be dealt with as normal imports.

[1] List of Participants: Angola, Australia, Belgium, Botswana, Brazil, Burkina Faso, Canada, the People's Republic of China, the Democratic Republic of Congo, Cyprus, Czech Republic, Denmark, European Community, France, Gabon, Germany, Ghana, Guinea, India, Israel, Italy, Ivory Coast, Japan, Korea, Lesotho, Liberia, Mauritius, Mexico, Namibia, the Netherlands, Norway, Philippines, Portugal, Russian Federation, Sierra Leone, South Africa, Swaziland, Sweden, Switzerland, United Republic of Tanzania, Thailand, Ukraine, United Arab Emirates, United Kingdom, United States of America, Zimbabwe.

With regard to the import process, when checking the bill of entry the assessment officer needs to verify whether the import of the unpolished diamonds is from a Participant. The certificate must be compared with the "specimen" in the office and any discrepancy must be referred to the Diamond Board while the consignment will be detained. Where finished diamonds are imported and Customs suspects that the value may have been wrongly declared in terms of the commercial invoice presented, Customs will call for additional information such as the proof of payment and contract of sale. Customs may have an independent valuation done at the expense of the importer.

Diamonds imported on a temporary basis require a provisional payment equal to 25% of the VAT (Value Added Tax) pending proof of export.

If a Kimberley certificate is not produced or the importer of unpolished diamonds is not licensed with the Diamond Board, the matter is referred to the Gold and Diamond branch of the South African Police Service. In terms of the Diamond Act, 1986 (Act No. 56 of 1986), no person is allowed to be in possession of unpolished diamonds unless licensed to do so.

Passengers importing any type of diamonds must produce a commercial clearance unless the value as evidenced by the invoices or Kimberley certificate indicates that it falls within rebate allowances. Unpolished diamonds imported from non-participants or without the Kimberley Process Certificate will be detained and the matter referred to the Gold and Diamond branch of the South African Police Service. Where passengers import finished/polished diamonds without any documentation such as the invoices, the diamonds will be detained. Customs may have an independent valuation done at the expense of the importer.

1.3 As regards sub-paragraph 1 (a), under the provisions of Regulations 3 (1) (d) and Regulation 10 (1) c of the Exchange Control Regulations (see page 9 of the third report), South Africa has rendered alternative payment systems such as "hawala" illegal. The CTC would be pleased to know what measures South Africa intends taking in order to ensure alternative payment systems are no longer functioning within its borders as a means of financing terrorism?

South Africa has an Exchange Control regime in place. Currency exchange and electronic monetary transfers are only permitted through Authorised Dealers. These Authorised Dealers are appointed by the Minister of Finance and regulated by the Exchange Control Department at the South African Reserve Bank.

There are 31 banks that are licensed as Authorised Dealers, 2 institutions have limited authority to conduct solely travel-related currency exchange and 5 institutions are permitted to operate as bureaux de change. All foreign exchange transactions must be reported to the Exchange Control Department through the Cross-Border Reporting System.

The Exchange Control Department has the power to investigate any alleged contravention of the Exchange Control Regulations, including hawala's. Thus the Exchange Control has a dedicated Investigations Division within the Exchange Control Department. This Investigations Division employs 12 specialists, who rigorously investigate and prosecute contraventions of Exchange Control regulations. The Exchange Control Investigations Division has extensive ties with other Governmental Departments that have resulted in numerous convictions for contraventions of Exchange Control Regulations.

The Exchange Control Department issues Exchange Control Circulars that give effect to UN decisions and sanctions. All Authorised Dealers through the circulars are notified to not make funds or economic resources available to individuals or entities listed by the UN Security Council resolutions. (See pages 7-8 of Report S/2001/1281). Under Exchange Control Regulation 4, the Exchange Control Department may seize or block any contraventions in terms of the cross border transfers.

1.4	With a view to effectively implementing sub-paragraph 1 (a), has South Africa developed any special strategy or investigative tools, other than those already referred to in previous reports, to enable agencies such as the Police, Customs, the Anti-Money Laundering Department and the Central Bank effectively to prevent resources from being transferred to terrorists? (For example, tools to detect the following types of money laundering: trade based, real estate based, over and under invoicing of imports and exports, alternative remittance systems, such as "hawala", etc.)

South Africa has been developing and implementing policies and measures to combat money laundering for a number of years. South Africa has had legislation with measures to criminalise and combat money laundering, including an obligation to report suspicious transactions, since 1996.

South Africa has established new investigating and prosecuting units such as the Directorate for Special Operations ("the Scorpions") and the Asset Forfeiture Unit to combat organised crime and money laundering and to deal with the proceeds of crime.

In 2002 South Africa enacted legislation (the Financial Intelligence Centre Act, 2001) expanding on these measures by requiring a very wide range of institutions to implement "know your customer" regimes and enhancing the reporting obligations. In addition, this legislation established the Financial Intelligence Centre to receive and analyse the reported information. In February 2003 the Financial Intelligence Centre started functioning in an operational capacity.

Customs and the South African Reserve Bank have developed an electronic-based information system in relation to controls regarding imports and exports. Through this, information provided in relation to exports and imports to both institutions – as a result of revenue and exchange control perspectives, respectively – is able to be shared and compared, facilitating control in general and making abuse, such as over and under invoicing of imports and exports, including by those supporting terrorists – more likely to be detected. The "DA 550 FORM" includes an Export Control Number, which is a Unique Consignment Reference ("UCR") number that each exporter is required to generate per consignment. The UCR number will be used to control the receipt of export proceeds. This is a mandatory field that will indicate the calendar year in which the exports took place, the SWIFT country code of the country from where the exports originated and the customs client number as allocated to the exporter by the South African Revenue Service (SARS). It will also reflect the unique reference number of the document generated by the company that will link the export proceeds to the export consignment. The form also requires the value of the full foreign currency proceeds paid, or payable by the purchaser to the exporter. The exporter must also provide the number of days between the date of shipment and the anticipated date for the receipt of outstanding payments.

It must also be pointed out that all the investigative techniques available to investigating authorities, such as covert operations, the use of informants, interception and monitoring of

communication, controlled delivery etc. are available to detect and investigate money laundering.

South Africa is currently in the process of passing legislation (the POCDATARA Bill – see paragraph 1.1) which will criminalise the financing of terrorism on an extensive basis, including activities to launder property destined to finance terrorism. The enactment of this legislation will widen the scope of the above-mentioned measures aimed at combating money laundering so as to make them more directly applicable to terrorist financing offences. In particular the investigative techniques referred to above will also be applicable to the terrorist financing offences, including the laundering of property involved in terrorist financing. This legislation will further enhance the reporting duties of financial and other institutions to include reports of suspected terrorist financing. It will also expand the functions of the Financial Intelligence Centre to include the analysis of such reports. Finally, the legislation will expand the scope of South Africa's asset forfeiture legislation so as to allow the freezing and forfeiture of property involved in terrorist financing.

1.5 The CTC would be grateful if South Africa could supply it with information relating to the matters, set out immediately below, for the period 1 January 2001 up to the present:

a) The number of arrests of terrorists or their supporters;

b) The value of funds and assets frozen in relation to individuals and entities identified as terrorists or terrorist organizations;

c) Examples of successful investigations/prosecutions relating to terrorism and the financing of terrorism which could be made public.

South Africa has informed the CTC in previous reports that, pending the adoption of the POCDATARA, the only legislation in South Africa that refers specifically to terrorism is section 54 of the Internal Security Act (Act No.74 of 1982). In this context terrorism is defined with reference only to terrorist attacks on South Africa and on the constitutional order.

Section 54 of the Internal Security Act provides that:

QUOTE

(1) Any person who with intent to-

(a) overthrow or endanger the State authority in the Republic;
(b) achieve, bring about or promote any constitutional, political, industrial, social or economic aim or change in the Republic;
(c) induce the Government of the Republic to do or to abstain from doing any act or to adopt or to abandon a particular standpoint; or

in the Republic or elsewhere-

(i) commits an act of violence or threatens or attempts to do so;

(ii) performs any act which is aimed at causing, bringing about, promoting or contributing towards such act or threat of violence, or attempts, consents or takes any steps to perform such act;
(iii) conspires with any other person to commit, bring about or perform any act or threat referred to in paragraph (i) or act referred to in paragraph (ii), or to aid in the commission, bringing about or performance thereof; or
(iv) incites, instigates, commands, aids, advises, encourages or procures any other person to commit, bring about or perform such act or threat,

shall be guilty of the offence of terrorism and liable on conviction to the penalties provided for by law for the offence of treason.

(3) Any person who with intent to-

(a) endanger the safety, health or interests of the public at any place in the Republic;
(b) destroy, pollute or contaminate any water supply in the Republic which is intended for public use;
(c) interrupt, impede or endanger at any place in the Republic the manufacture, storage, generation, distribution, rendering or supply of fuel, petroleum products, energy, light, power or water, or of sanitary, medical, health, educational, police, fire-fighting, ambulance, postal or telecommunication services or radio or television transmitting, broadcasting or receiving services or any other public service;
(d) endanger, damage, destroy, render useless or unserviceable or put out of action at any place in the Republic any installation for the rendering or supply of any service referred to in paragraph (c), any prohibited place or any public building;
(e) cripple, prejudice or interrupt at any place in the Republic any industry or undertaking or industries or undertakings generally or the production, supply or distribution of commodities or foodstuffs; or
(f) impede or endanger at any place in the Republic the free movement of any traffic on land, at sea or in the air,

in the Republic or elsewhere-

(i) commits any act;
(ii) attempts to commit such act;
(iii) conspires with any other person to commit such act or to bring about the commission thereof or to aid in the commission or the bringing about of the commission thereof; or
(iv) incites, instigates, commands, aids, advises, encourages or procures any other person to commit such act,

shall be guilty of the offence of sabotage and liable on conviction to imprisonment for a period not exceeding twenty years.

(4) Any person who has reason to suspect that any other person intends to commit or has committed any offence referred to in subsection (1), (2) or (3) and any person who is aware of the presence at any place of any other person who is so suspected of intending to commit or having committed such an offence, and who-

(a) harbours or conceals that other person;
(b) directly or indirectly renders any assistance to that other person; or
(c) fails to report or cause to be reported to any member of the police such presence of that other person at any place,

as the case may be, shall be guilty of an offence and liable on conviction to the penalty to which the person whom he so harboured or concealed or to whom he so rendered assistance or whose presence he so failed to report or to cause to be reported would have been liable on conviction of the offence which the last-mentioned person intended to commit or committed, as the case may be.

(5) No person shall be convicted of an offence in terms of subsection (1), (2) or (3) committed at any place outside the Republic, if such person proves that he is not a South African citizen and has not at any time before or after the commencement of this Act been resident in the Republic and that he has not at any time after 27 June 1962 entered or been in the Republic in contravention of any law.

(6) If the evidence in any prosecution for an offence in terms of-

(a) subsection (1) does not prove that offence but does prove an offence in terms of subsection (2), (3) or (4);

the accused may be found guilty of the offence so proved.

(7) For the purposes of subsection (1) (ii), and without derogating from the generality of the meaning of the word 'act', the undergoing of specific training or the possession of any substance or thing shall be deemed also to constitute the performance of an act.

(8) For the purposes of this section-

'prohibited place' means a prohibited place as defined in section 1 (1) of the Protection of Information Act, 1982 (Act 84 of 1982);

'public building' means any building which or part of which is occupied by the State, any institution or body instituted by or under any law and to which local or other government functions have been assigned.

UNQUOTE

Within this context the following information can be provided:

From the period 1 January 2001 up to the present:

a) The number of arrests of terrorists or their supporters: 27

b) The value of funds and assets frozen in relation to individuals and entities identified as terrorists or terrorist organisations: nil

c) Examples of successful investigations/prosecutions relating to terrorism and the financing of terrorism which could be made public:

Three people were convicted on charges of sabotage and sentenced to eight years imprisonment. One person was found guilty on a charge of terrorism in the "Boeremag" case (domestic terrorist group charged with treason) and twenty-two persons involved in this case are standing trial in the High Court.

B. Effectiveness of Counter-Terrorism Machinery

1.6 With reference to sub-paragraph 2 (e) of the Resolution, States are required to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts is brought to justice. Could South Africa provide the CTC with an outline of its laws relating to Cyber crimes as well as an outline of the provisions that prevent terrorists from abusing the Internet?

Chapter XIII of the Electronic Communications and Transactions Act, 2002 (No.25 of 2002) (**Addendum C**) provided the first statutory provisions on cyber crime in South African jurisprudence. The Act, administered by the Department of Communications, introduced statutory criminal offences relating to information systems and includes

(a) unauthorised access to data;
(b) interception of or interference with data;
(c) computer-related extortion;
(d) fraud; and
(e) forgery.

Any person aiding or abetting another in the performance of any of these crimes will be guilty as an accessory. Section 86 of the Act provides as follows on unauthorised access to, interception of or interference with data:

(1) Subject to the Interception and Monitoring Prohibition Act, 1992 (No. 127 of 1992), a person who intentionally accesses or intercepts any data without authority or permission to do so, is guilty of an offence.

(2) A person who intentionally and without authority to do so, interferes with data in a way which causes such data to be modified, destroyed or otherwise rendered ineffective, is guilty of an offence.

(3) A person who unlawfully produces, sells, offers to sell, procures for use, designs, adapts for use, distributes or possesses any device, including a computer program or a component, which is designed primarily to overcome security measures for the protection of data, or performs any of those acts with regard to a password, access code or any other similar kind of data with the intent to unlawfully utilise such item to contravene this section, is guilty of an offence.

(4) A person who utilises any device or computer program mentioned in subsection (3) in order to unlawfully overcome security measures designed to protect such data or access thereto, is guilty of an offence.

(5) A person who commits any act described in this section with the intent to interfere with access to an information system so as to constitute a denial, including a partial denial, of service to legitimate users is guilty of an offence.

If the CTC has abuse of computer transactions on the Internet in mind when requesting an "outline of the provisions that prevent terrorists from abusing the Internet", then the Electronic Communications and Transactions Act deals effectively with this issue.

The Electronic Communications and Transactions Act in Chapter III deals with facilitating electronic transactions. It deals with the removal of legal barriers to electronic transacting. Part 1 provides for the legal recognition of data messages and records. Provision is made for the legal recognition of electronic signatures and "advanced electronic signatures" as a secure form of electronic signing. Electronic data is, subject to certain conditions, permitted to be retained for statutory record retention purposes, is regarded as being "in writing", and as a true copy of an "original" record, and provision is made for securing proper evidentiary weight of electronic evidence. Part 2 deals with the rights and obligations that follow from the communication of data messages, namely contract formation with the time and place of sending and receiving data messages, as well as the time and place where a contract is deemed to have been formed by means of data messages. The Act also provides for the validity of sending notices and other expressions of intent through data messages.

Chapter IV deals with E-government services. This Chapter facilitates electronic filing. It lists the requirements for the production of electronic documents and the integrity of information. Provision is made for a Department or Ministry to accept and transmit documents in the form of electronic data messages, to issue permits or licences in the form of a data message and to make or receive payment in electronic form.

Chapter V deals with cryptography providers. The Internet presents security challenges, which, without an effective regulatory framework, would pose a threat to the security of consumers and the State. This Chapter requires the suppliers of cryptography materials to register in the prescribed manner their names and addresses, the names of their products and a brief description thereof maintained by the Department of Communications. This allows investigative authorities such as the South African Police Service to identify which organisations provide the encryption technologies intercepted by them in terms of South African monitoring and interception laws. This enables the investigative authorities to approach these service providers to assist with deciphering the encrypted messages.

Chapter VI deals with authentication of service providers. Identification and authentication of the parties in cyberspace remains a challenge and poses threats to consumers and businesses. The Act provides for the establishment of an Accreditation Authority within the Department of Communications, allowing voluntary accreditation of electronic signature technologies in accordance with minimum standards. Once accredited, these "advanced" electronic signatures will allow a party to rely on their authenticity.

Chapter IX deals with protection of critical databases. In terms of its definition, critical data is information, which, if compromised, may pose a risk to the national security of the Republic or to the economic or social well being of its citizens. The Minister may prescribe matters relating to the registration of critical databases and require certain procedures and technological methods to be used in their storage and archiving.

Chapter XII of the Electronic Communications and Transactions Act deals with Cyber inspectors. Chapter XII of the Act provides for the Department of Communications to appoint cyber inspectors. The cyber inspectors may monitor Internet web sites in the public domain and investigate whether cryptography service providers and authentication service providers comply with the relevant

provisions. The inspectors are granted powers of search and seizure, subject to obtaining a warrant. Inspectors can also assist the police or other investigative bodies, on request.

South Africa signed the Council of Europe's Convention on Cyber-Crime on 28 November 2002. Arrangements are currently being made for the Protocol to the Convention to be signed, whereafter the Department of Justice will proceed with the simultaneous ratification of both instruments.

1.7 Without asking South Africa to disclose sensitive information, the CTC would be grateful for an outline of any specific training that South Africa may have developed for its administrative, investigative, prosecutorial and judicial authorities in order to implement sub-paragraph 2 (e) of the Resolution. This training could cover the following points:

- Typologies and trends in terrorist financing methods and techniques;
- Techniques for the tracing of assets, which represent the proceeds of crime or have been used for the financing of terrorism, with a view to ensuring that such property is frozen, seized or confiscated; and
- Anti-terrorism operations.

The South African Police Service, sponsored by "SaferAfrica", an independent non-governmental organisation, is in the process of developing a training programme for countries in the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO). The training programme includes investigative techniques, obtaining intelligence with regard to terrorist acts in order to prevent these acts from taking place and contains specific modules such as hostage negotiation, explosives identification and special forces intervention.

The South African Reserve Bank College has developed a training programme consisting of two modules that is designed to enable financial supervisors to fulfill their obligations in relation to anti-money laundering responsibilities. While the course addresses the issue of controls regarding terrorist funding and the international standards and actions in this regard, it has only dealt with the draft legislative framework that exists within South Africa. However, materials concerning the prevention of terrorist financing have been developed for presentation in the next financial year when it is expected that the relevant legislation would be enacted. The programme has involved participation from the South African Reserve Bank, the Financial Services Board, the National Gambling Board and the South African Revenue Services.

C. Effectiveness of Customs, Immigration and Border Controls

1.8 Sub-paragraph 2 (g) of the Resolution requires States to prevent the movement of terrorists or terrorist groups by establishing effective border controls. The CTC would be pleased to know the procedures or equipment, which South Africa has put in place at its borders to identify fraudulent or counterfeit passports.

At all South Africa's ports of entry ultra violet lights have been installed to detect fraudulent and counterfeit passports. At Johannesburg International Airport there is a document examination machine, which assists with the detection of fraudulent and counterfeit passports. The Movement Control System is loaded with all lost and stolen passports of other countries, as informed by them, and a person traveling on such a passport will not be admitted following detection by the Movement Control System. The Department of Home Affairs envisages placing Edison-like information systems at all the ports of entry.

The South African Police Service conducts the identification of fraudulent or counterfeit passports either through human observation or with electronic assistance. With regard to human observation, training courses for both border police and immigration include modules on the identification of fraudulent / counterfeit passports.

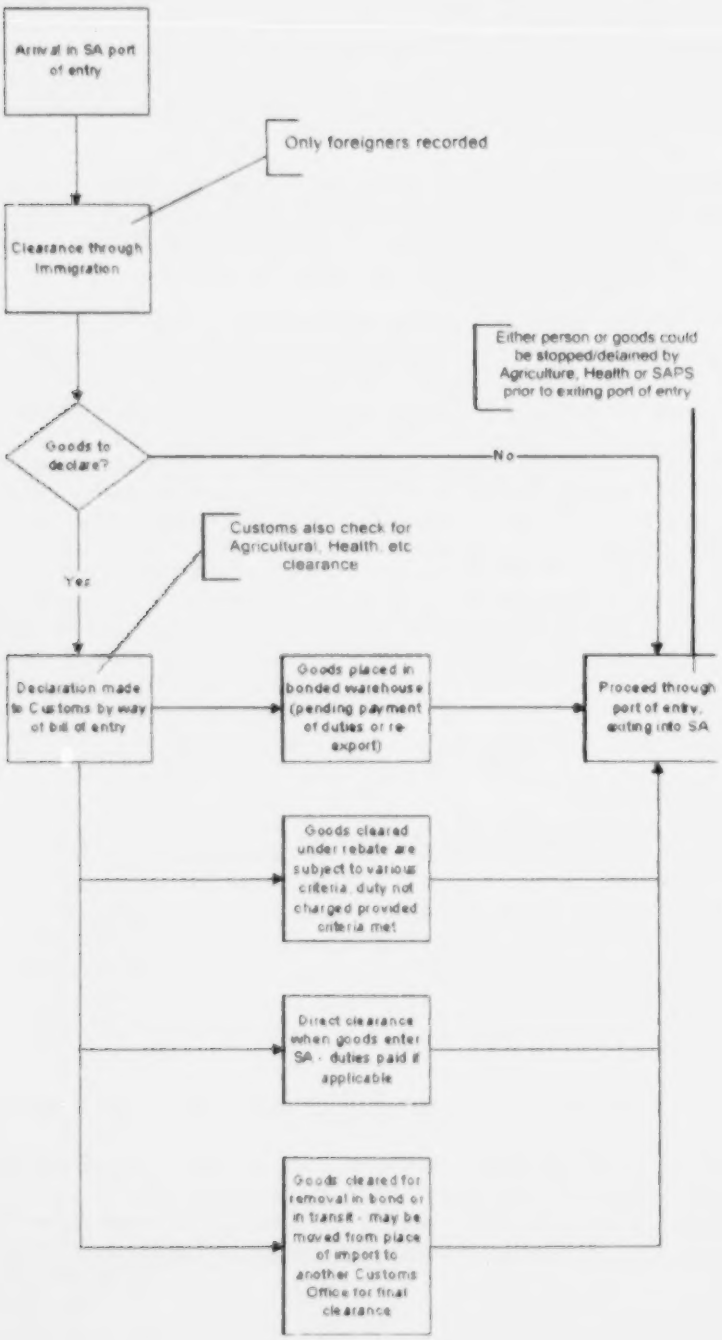
Procedurally, present checks are executed as a matter of course by immigration officials at all Points of Entry (PoE), especially airports. Police officials regularly carry out passport verification checks in the PoE in the post-immigration phase. A private security firm is also, for commercial reasons, employed at airports by air carriers to verify passport authenticity.

1.9 As regards sub-paragraphs 2 (e) and 2 (g), could South Africa provide an outline of the methods which it uses to process imports and exports as well as the steps which it takes to target for inspection or interdiction high risk cargo which may help to commit or finance terrorist acts. Could South Africa explain how, under the provisions of the Currency and Exchange Act, 1933 (cited at pages 3 and 4 of the first report) it prohibits and prevents illegal outbound movements of currency, negotiable instruments, gold and other high value materials which may provide financial support for terrorist groups? Do several law enforcement agencies coordinate their resources with a view to carrying out interdiction actions of this kind? Without compromising any sensitive information, could South Africa provide examples of successful interdiction operations?

Import, Export and Transit of Goods

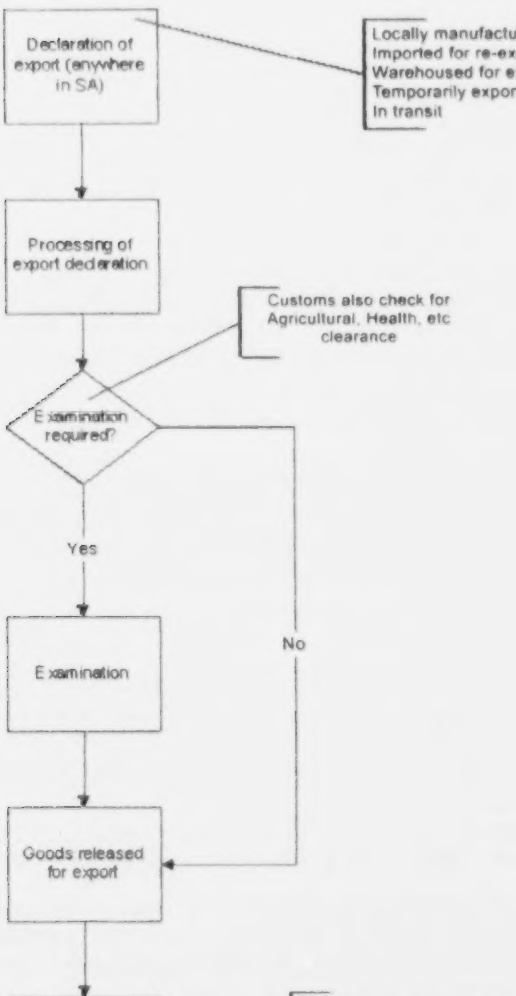
The flow chart below provides a high-level overview of the process involved in relation to imports, exports and transit of goods.

Importation


Arrival in SA port of entry
Only foreigners recorded
Clearance through Immigration
Either person or goods could be stopped/detained by Agriculture, Health or SAPS prior to exiting port of entry
Goods to declare?
No
Yes
Customs also check for Agricultural, Health, etc clearance
Declaration made to Customs by way of bill of entry
Goods placed in bonded warehouse (pending payment of duties or re-export)
Proceed through port of entry, exiting into SA
Goods cleared under rebate are subject to various criteria, duty not charged provided criteria met
Direct clearance when goods enter SA - duties paid if applicable
Goods cleared for removal in bond or in transit - may be moved from place of import to another Customs Office for final clearance

Note: All goods are subject to examination by Customs to ascertain whether they were correctly declared and whether the correct duties and VAT have been paid. Uncleared / detained / illicit goods will be detained / seized and placed in the State Warehouse from where they may be auctioned / sold, re-exported or destroyed by Customs.

Exportation



Customs Procedures

Arrival of Goods in South Africa

Goods arrive in the Republic by one of the following modes of transport: Air, Sea, Road, Rail or Post. In order for Customs to safeguard any revenue due to the State and to ensure compliance with national legislation, the importer must declare to Customs what has been brought into the country and the mode of transport utilised. National legislation allows an importer / agent 7 days (or more, depending on the type of goods) in which to clear goods from the time they have landed in the Republic. Goods not declared or cleared within this time period may be removed and detained in a State Warehouse. It must be noted that certain goods will require an import permit, which must be produced at the time of clearance.

Arrival of Travellers in South Africa

Every person entering or leaving the Republic must report to the Customs office nearest to the point at which the border was crossed, and declare whatever goods are in his/her possession. Travellers are required to declare all goods purchased abroad or gifts carried on behalf of other persons to Customs. In line with international best practice, Customs affords travellers various allowances enabling them to import goods in limited quantities and value, without payment of duty.

Departing Travellers

Travellers leaving the Republic are required to register with Customs all expensive items that are identified by means of a serial number, such as cameras and portable computers. Registration of such goods at the time of temporary exportation will facilitate re-importation, i.e. goods that have been registered on such forms will not be dutiable on re-importation.

Importation / Export Clearance of Goods

The importer is required to complete a bill of entry. The clearance process includes accepting and checking the goods declaration against the documents produced (invoice, bill of lading, certificate of origin, permits, etc.), examination of the goods if necessary and the assessment and collection of duty and VAT. The exporter is required to complete the original and an audit copy of each export declaration form.

Integrated Customs Risk Analysis Solution (ICRAS)

For the South African Revenue Service Customs to optimise compliance amongst its clients, proper risk analysis is of utmost importance. ICRAS is currently being rolled-out to Customs offices. It will cover all business areas where risk analysis is required, making full use of the technology at the disposal of the South African Revenue Service.

Container Security Initiative (CSI)

CSI is a co-operative arrangement between the US Customs and Border Protection Service and South African Customs in order to:

- Make maritime trade routes safe and secure from harmful economic elements and acts of terrorism,
- Identify and pre-screen high risk consignments through use of advance cargo information, and
- Utilise non-intrusive forms of inspection, i.e. X-ray scanner technology to facilitate the examination of containers and cargo content.

South Africa and the United States entered into a formal bilateral agreement with the signing of the Declaration of Principals on CSI between the two countries on 27 June 2003. In effect this declaration seeks to intensify co-operation between the respective Customs administrations within the framework of the Customs Mutual Assistance Agreement signed in Washington, D.C. in August 2000. The exchange of information will ensure identification, screening, and where necessary the examination of high-risk containers. To further enhance this co-operation the declaration provides for the stationing, on a pilot basis, of US Customs and South African Customs officials at harbours which ship significant volumes of containerised traffic between the two countries.

The port of Durban is the 17th CSI port to become operational worldwide since the CSI was proposed in January 2002, and South Africa's first.

Carriers conveying goods into the US are now required to register with the US CBP to lodge manifests electronically on its Automated Manifest System (AMS), and all cargo must be screened before being loaded on the vessel.

The World Customs Organisation (WCO), through its Task Force on Supply Chain Security and Trade Facilitation has recently developed a set of guidelines and instruments to assist its 161 members in the adoption of the new strategic approach to customs compliance and enforcement. South Africa has already been working on several of these elements, and will focus more specifically on the export, transit and transhipment modes of its business in 2004. Some of these measures include the Customs Scanner Implementation Project, the Unique Consignment Reference, the WCO data model and its 27 essential data elements for risk management purposes.

Container Scanner Implementation Project (CSIPP)

Parallel with the Container Security Initiative, and in support of the expansion of the CSI capability at other seaports, inland consolidation centres and certain land border crossings, the South African Revenue Service has embarked upon a Public Private Partnership (PPP) approach towards the sourcing of an effective cargo scanning package.

Evaluations of prospective Transaction Advisors (TA) have been completed and the appointment of the preferred TA will occur shortly. Besides being a stipulation of National Treasury's PPP policy, the TA will assist the South African Revenue Service in the feasibility of scanners at key points of entry and exit in South Africa. Once proven, the TA will assist the South African Revenue Service in the preparation of a tender for a preferred scanner outsource provider. The anticipated time frame for completion of the PPP is May 2004, with the rollout of scanners occurring shortly thereafter.

Enforcement Successes

For 2003/2004 to date approximately R 1.1 billion in value has been either detained or seized by Anti Smuggling teams. Specialised teams to focus on high-risk areas have been proven successful. Results in key areas are:

- Drugs: 35 Seizures
- Counterfeit: R424 million in value seized
- Cigarettes (Contraband): R4,8 million in value seized
- Cash: 18 seizures amounting to R2,3 million

Eight criminal cases are in progress.

Combined South African Police Service and Customs teams, trained in identification, profiling and search or seizure of high-risk cargo operate at designated Points of Entry (PoE). Further initiatives are also being implemented to ensure compliance with the Customs and Excise Act and the measures that were implemented to ensure the optimization of revenue collection and the protection of society by identifying and detecting harmful activities.

Exchange Control Measures

The Currency and Exchange Act of 1933 and the Exchange Control Regulations of 1961 as amended, empower the Minister of Finance to instruct Authorised Dealers to freeze funds and financial resources and block accounts held in South Africa to prohibit the movement of capital into and from South Africa. This Act would also be applied to prevent the movement of capital that may provide financial support for terrorist groups.

Authorised Dealers are expected to record a wide range of information. This information is held in the Cross Border Foreign Exchange Transactions Reporting System and the information is analysed by the Exchange Control Investigations Division of the South African Reserve Bank, for accuracy. Numerous cases have been referred to the South African Police Service.

In reply thereto, and with specific reference to the conveyance of cash but not necessarily limited thereto, Exchange Control Regulations 3(1)(a) and (b) state as follows:

"3. (1) Subject to any exemption which may be granted by the Treasury or a person authorised by the Treasury, no person shall, without permission granted by the Treasury or a person authorised by the Treasury and in accordance with such conditions as the Treasury or such authorised person may impose –

(d) take or send out of the Republic any bank notes, gold securities or foreign currency, or transfer any securities from the Republic elsewhere; or
(e) send, consign or deliver any bank notes, gold, securities or foreign currency to any person for the purpose of taking, sending or removing such bank notes, gold, securities or foreign currency out of the Republic; or
(f) take any South African bank notes into the Republic or send or consign any such notes to the Republic."

1.10 Relative to sub-paragraph 1 (a), the CTC would be pleased to know what legal and administrative measures are in place in South Africa to track the production in and movement out of the country of, gold, diamonds and other precious materials mined in South Africa? Are South African mine owners or mine leaseholders required to supply data to the relevant authorities concerning the production, waste, sale and export of the materials which they produce?

Legal and administrative measures to track the production and movement of gold, diamonds and other precious metals

The following legal and administrative measures are in place to track the production and movement out of South Africa with regard to gold, diamonds and other precious metals:

Gold

Import

Authorisation from the South African Reserve Bank is needed before any unwrought (raw) gold can be imported into South Africa. As soon as unwrought gold is imported, the Customs and Excise Department must be notified (disclosed by person or company). The buyer should also supply the necessary documentation and the necessary fees should be paid. Only then will the person or company be authorised to take possession of the raw material.

Only a registered person or company authorised to possess such material may be in possession thereof i.e. they should be registered in terms of the Mining Act, 1967 (Act No. 20 of 1967). The registered person or company must ensure that a permit to transport such material is obtained from the South African Police Service.

The import of all second-hand precious metal, waste and scrap (gold and platinum) is subject to import control measures and an import permit is required from the Department of Trade and Industry's import control division (now ITAC), except in the case of gold for which the Reserve Bank issues import permits.

Export

Only a registered person or company will be permitted to export such material and should also be registered in terms of the Mining Act, 1967 (No. 20 of 1967). The registered person or company should notify (disclosure by person or company) that the raw material will be exported and the necessary fees should be paid.

Diamonds

Export

If the Dealer has won a parcel at the tender or purchased it from another dealer and wishes to export the diamonds, two options can be followed:

- To offer them for local sale at the Diamond Exchange (Bourse) – this will exempt him/her from the 15% Export Duty payable.

- To pay the Export Duty (15%) and export the goods directly without offering them for sale locally.

Procedures at the Bourse

The Bourse will firstly request a Dealer's Licence. A Company will be requested to produce an authorised representative certificate. A submission fee, depending on the value of the diamonds, will have to be paid.

There are four different categories of submission fee:

"A"	$0	To	$29,999-00	$20-00 + Vat
"B"	$30,000-00	To	$74,000-00	$45-00 + Vat
"C"	$75,000-00	To	$224,999-00	$115-00 + Vat
"D"	$225,000-00	To	$449,999-00	$345-00 + Vat
"E"	$450,00-00	To	$...	2% of Total Value + Vat

NOTE: *a single stone falling under "E" Category will be subject to fee of "D" category*

Following this procedure, the Bourse accepts the goods for four working days. If there is an offer on the closing date, the Bourse will fax the client a K-Form, containing the relevant information. The same will occur if there is no offer by the closing date.

After collecting the parcel and the K-Form from the Bourse, the client will write out an invoice, which will be presented to a bank. The client will inform the bank that the diamonds are to be exported and they will complete a F178 form, which will be stamped and signed by bank officials. The client can then proceed to a courier company, where they will prepare a DA 500 form.

At this point in the process, the client should have in his/her possession the following:

- 5 copies of the invoice
- 5 copies of the Form F178
- 5 copies of the Form DA500
- copies of the K-Form
- A parcel of the diamonds

The client will then call the South African Diamond Board for an appointment.

Procedures at the Board

The client will present the documentation and the diamonds to the Board and will be allocated to an inspector. The inspector will verify the contents of the documents and the packet of diamonds. The inspector will give the client a Form N (I) to complete, an export declaration form (Form KPC (iii)) and declare that the unpolished diamonds in the parcel have been acquired in a lawful manner.

The inspector will then inspect the diamonds and verify conformity with the Export Return (N(i)). After sealing the diamonds in a tamper-resistant container, the inspector will issue a validating Kimberly Process (KP) Certificate. The original certificate is affixed to the container in a manner that ensures that it cannot be separated from the container. The exporter is furnished with an authenticated copy. The inspector will clear the export, whereupon the diamonds can be taken to the courier for transportation.

The client will be charged for the following services:

- $75 Service Fees
- $75 Bourse Fees
- 0.17% Levy on the value of the Diamonds
- 14% Vat

Supplying Data to the Authorities

Producers, buyers, sellers and transporters are required by law to hold permits to conduct their activities. They are also legally bound to keep registers to track the production in and movement out of the country of gold, diamonds and other precious materials mined in South Africa. The South African Police Service regularly inspects this documentation to verify that the activities are conducted legally.

1.11	The CTC was pleased to note, at page 24 of the first report, that South Africa was at present replacing its identity documents, which are currently in booklet form, by a more secure Smart card identity document, which contains additional security features. Without disclosing any sensitive information, could South Africa provide the CTC with a progress report on the changeover to the new identity documents.

In accordance with National Treasury regulations, the Department of Home Affairs is presently undertaking an investigation into the appropriateness of a Public Private Partnership (PPP) for the procurement structure for the design, development, implementation and operation of the new smart ID card. The completion date for the ID card PPP study is the end of January 2004, with the final tender being released in the third quarter of 2004.

1.12	The CTC would be pleased to know, in regard to Sub-paragraph 2 (g), what measures are being taken to ensure that in-transit airline passengers do not evade detection at airports and enter South Africa illegally? Does South Africa compare manifests of in-transit air passengers with manifests of outbound airline passengers with a view to ensuring that all transit passengers have boarded their respective flights? Could South Africa outline its procedures for vetting airport personnel, including airport, airline and ramp employees?

In-transit airline passengers

In-transit passengers are controlled within a restricted area within the airport terminal. It is the responsibility of the South African Police Service Border Police and the Immigration Department to ensure that these passengers do not enter the country illegally,

South Africa does not at present compare airline manifests to ensure the departure of transit passengers.

Operationally, the South African Police Service has introduced ad hoc projects targeting high-risk flights to identify and prevent abuse of the transit facility at Johannesburg International Airport and has obtained substantial successes with these projects.

All persons requiring access to the restricted areas (airside) of the airport are required to be in possession of a valid permit. Prior to the issuance of such a permit, the applicant would be subjected to a background check and a criminal record check. The South African Police Service and the intelligence community carry out these checks. Airport personnel at all ACSA airports are thus vetted and issued with electronic cards, which control access in the airports.

1.13 In regard to Sub-Paragraph 2 (g) of the Resolution, the CTC would be grateful for an outline of any procedures which South Africa has established in order to supply advance information concerning international passengers and cargo to its own authorities and to those of other States so as to enable them to screen for suspected terrorists and prohibited cargo before disembarkation and unloading.

International Passengers

Due to historical inadequacies as well as global modernisation, procedures regarding passenger movement are currently being reviewed. There is currently no regulatory requirement for advanced passenger information within South Africa.

The matter has been identified by the National Aviation Security Committee (NASC), which is chaired by the South African Civil Aviation Authority (CAA). It is envisaged that a research project will be established, in order to make recommendations to the NASC in respect of new regulations for the 2004 regulatory review. In addition a passenger declaration system has been implemented at designated Points of Entry (PoE). Passport scanners and declaration form scanners are also being installed.

The CAA has also completed the drafting of Cargo Security Regulations (Civil Aviation Regulations Part 108), which are to be forwarded to the Minister of Transport in 2004 for approval.

Cargo

The manifest acquittal system which has been successfully rolled-out to sea harbours is now being implemented for air traffic. Imbedding of the system is expected to start during January 2004.

In terms of the Rules currently being circulated regarding the operation of the manifest acquittal system, the carrier of a vessel that is due to arrive with cargo for discharge at a port in the Republic on a voyage from a port outside the common customs area must submit a vessel schedule -

(aa) if the duration of the voyage from the first port of departure to its arrival at the first port of discharge in the Republic is likely to take more than 10 days, not later than 10 days before its arrival; or

(bb) where the duration of the voyage will be less than 10 days, not later than 12 hours before its arrival.

In addition, the airport authority must submit a schedule for every aircraft that is due to arrive at that airport on a flight from a place outside the common customs area with cargo to be discharged at that airport not later than 1 hour before its arrival.

1.14 As regards Sub-paragraph 2 (g) of the Resolution, could South Africa provide the CTC with an outline of its legislative provisions concerning the granting of citizenship and other civic rights in South Africa? Can a foreigner, who is granted citizenship or other civic rights in South Africa, change his or her name? What precautions are taken to establish the true identity of a person before new identity papers are issued to him or her? in addition, what measures are in place to prevent marriages of convenience taking place between foreigners and South Africans and to prevent the use of fraudulent marriage documents from being used to obtain South African citizenship?

South African citizenship is regulated by the South African Citizenship Act, 1995. The Act provides for three basic forms of citizenship, namely citizenship by birth, by descent and by naturalisation. The Act is enclosed as **Addendum A**.

Only South African citizens and South African permanent residents are presently recorded in the computerised Population Register. Such persons, subject to the provisions of the Births and Deaths Registration Act, 1992, may apply for the change of their names. The Act requires a good and sufficient reason for a change of a surname. A forename or forenames may however be changed upon application.

The only manner in which foreign nationals can obtain South African citizenship is through naturalisation. To qualify for naturalisation, a foreigner must inter alia have lawful permanent residence status in the country, comply with the residential requirements (generally five years of permanent residence in the country), be of good character and meet various other requirements as specified in section 5 of the South African Citizenship Act of 1995. All applicants of 16 years and older, are also subject to a Criminal Records Check.

The fingerprints and photographs of applicants applying for the re-issuing of their identity documents are checked against their fingerprints and photographs stored in the Population Register.

All the Department of Home Affairs offices have been alerted to carefully check that prospective parties to a marriage comply with the legal requirements for a marriage. Marriage officers, however, are obliged to marry the parties if they comply with these requirements, such as both have consented to the marriage, are not prohibited to marry in terms of age, relationship, etc. A record is being kept of complaints of fraudulent marriages and checked against the Department of Home Affairs' permanent residence records.

1.15 In regard to sub-paragraph 2 (g) of the Resolution, could South Africa outline the procedures, which it has in place to protect its identity documents (for example, birth certificates, marriage certificates, identity documents and passports) from theft, fraudulent issuance or other abuses, which may assist terrorist activity?

Strict application and issuance procedures are in place to protect identity documents against abuses. The requirements for the application and issuing of the documents are prescribed in the respective legislation governing the documents. In brief the processes are:

(a) **Birth certificates**

To consider registration of a birth the status of the child is carefully checked. The procedures are progressively stricter the older the child. In the case of children 15 years and older an application for an identity document which includes a full set of fingerprints and photos forms part of the birth registration process.

(b) **Marriage certificates**

Only *ex officio* or duly appointed marriage officers may solemnise civil marriages. Two witnesses, the parties to the marriage and the marriage officer must sign a marriage register containing details of the spouses and the marriage immediately upon solemnisation of the marriage.

Before the Department of Home Affairs registers the marriage, the status and details of the spouses are first carefully checked against the National Population Register.

(c) **Identity documents**

All new applications require a full set of fingerprints and photos, which are carefully checked against the Department's fingerprints and identity records. If the applicant's birth has not been registered, an application for late registration of birth must accompany the identity document application.

(d) **Passports**

South African citizen passports are only issued to South African citizens whose births have been recorded in the National Population Register and to whom a 13-digit South African identity number has been allocated.

Refugee passports are issued to only refugees with approved asylum status in the country, and Documents for Travel Purposes to only South Africa permanent residence holders or stateless persons lawfully in the country who for acceptable reasons cannot obtain a passport from their country of origin.

D. Effectiveness of Controls Preventing Access to Weapons by Terrorists

1.16	Sub-Paragraph 2 (a) requires States to eliminate the supply of weapons to terrorists. South Africa achieved notable success in confronting urban terrorism in the late 1990s through its People Against Gangsterism and Drugs (PAGAD) initiative. The multidisciplinary law enforcement approach, highlighted by Operation Good Hope, led to numerous seizures of illegal weapons. Without compromising ongoing operations, could South Africa outline the efforts, which it makes to recover illegal firearms with a view to denying terrorists access to them? These efforts could include, for example, weapons purchase amnesty programs, operations similar to Good Hope etc.

The following statement in paragraph 1.16 of the Committee's letter is incorrect namely: "South Africa achieved notable success in confronting urban terrorism in the late 1990s through its People Against Gangsterism and Drugs (PAGAD) initiative. The multi-disciplinary

law enforcement approach, highlighted by Operation Good Hope, led to numerous seizures of illegal weapons". Members of PAGAD had been involved in perpetrating acts of urban terrorism in the Western Cape. PAGAD was not an initiative taken by Government to counter urban terrorism. Government's actions were directed against members of PAGAD, who committed acts of terrorism.

The South African Police Service Firearm Strategy is aimed at eradicating the availability of illicit firearms for their use in crimes of violence and has a focus on the control of legal firearms. Such crimes include terrorism.

The South African Police Service has instituted a five-pillar approach to managing firearms in the country.

The first pillar focuses on firearm-related regulators, including the Firearm Control Act, 2000 (Act No.60 of 2000) and the Southern African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Related Materials.

The second pillar is called "The Development and Maintenance of Effective Control Processes and Procedures for Firearms" and incorporates the implementation of the Firearms Control Act, including a new Firearms Control System that will manage the processes of firearms from acquisition to export or destruction. Currently the South African Police Service is conducting an audit of all firearms under the control of government departments to reconcile records and identify obsolete or redundant firearms that can be destroyed.

The third pillar of this strategy focuses on the reduction and eradication of the illegal pool and criminal use of firearms. This pillar focuses on the criminal side of firearms possession and includes illicit trafficking, organised crime, cross-border efforts and other measures.

The fourth pillar focuses on the prevention of crime and violence through awareness raising and social crime prevention partnerships.

The fifth and newest pillar, is entitled Regional Firearms Interventions. Its intent is to ensure co-ordinated planning, implementation, monitoring and evaluation of firearm initiatives aimed at reducing the proliferation of firearms for use in crime and violence in the Southern African region by:

- Managing all regional policy implementation on firearms (e.g. the SADC Firearms Protocol) and operational interventions;
- Managing regional requests for assistance by countries or agencies in Southern Africa, where the South African Police Service is the initiating or implementing agency.

Through this fifth pillar the South African Police Service is involved in policy issues such as the SADC Protocol and the United Nations Programme of Action, as well as operational matters such as co-operation with Mozambique through Operation Rachel or cross-border firearm operations.

In addition, the South African Government has adopted a position that all surplus, redundant, obsolete and confiscated small arms of a calibre of 12,7 mm and below should be destroyed in order to prevent these from ending up in the illicit small arms trade. This illicit trade would extend to terrorist activities as well. In this regard the South African National Defence Force

(SANDF) has completed the destruction of 271 867 of these weapons by May 2001. In addition, the South African Police Service destroyed 3 346 redundant or obsolete small arms and light weapons, as well as 9 070 forfeited firearms in 1999/2000. In July 2001, the SAPS announced that it had earmarked 11 057 confiscated firearms and 73 814 redundant or obsolete SAPS firearms for destruction. During 2001 and for the period ending August 2002, 35 966 of these redundant firearms, plus an additional 3 328 confiscated firearms had been destroyed.

The South African Government is also assisting neighbouring countries in the destruction of surplus, redundant, obsolete and confiscated small arms and light weapons. The SANDF assisted the Kingdom of Lesotho with the destruction of its Defence Force surplus stock of small arms, light weapons and components. In this regard, 4 240 of these weapons and components were transported to and destroyed in South Africa.

Operation Rachel, a joint weapons collection and destruction programme, between South Africa and Mozambique is aimed at destroying illegal firearms. Operation Rachel has been successful in drastically decreasing the flow of firearms to South Africa from Mozambique and besides it being primarily aimed at weapon destruction, it has also had a positive effect on confidence and capacity building in Mozambique.

The table below sets out the achievements of Operation Rachel for the 2001-2002 period. When considering types of weaponry destroyed in these operations it can be seen that it includes those types commonly used by terrorist groups.

TYPE	2001	2002	TOTAL
HANDGUNS	372	375	747
SUB-MACHINE GUNS	467	562	1029
RIFLES	2943	3768	6711
LIGHT/HEAVY MACHINE GUNS	148	225	376
MORTARS	32	17	49
LAUNCHERS	57	64	121
CANNONS/GUNS	2	65	67
SMALL ARMS AMMUNITION	486000	11004018	11490018
CANNON/GUN AMMUNITION	139	11	150
MORTAR BOMBS	1060	321	1381

PROJECTILES/ROCKETS/ MISSILES	37	508	545
BOOSTERS/ROCKET MOTORS	58	201	259
INITIATORS/FUSES	398	278	676
GRENADES	537	103	640
PERSONNEL MINES	96	49	145
DEMOLITION MINE/CHARGE	-	-	-
VEHICLE MINES	-	8	8
EXPLOSIVES (Kg)	12	87	99
FUSE & CORD (m)	-	-	-
DETONATORS	244	1479	1723
MAGAZINES	558	14991	15549

The South African Police Service also took part in Regional Simultaneous/ Bilateral Operations to Combat Illicit Firearms Trafficking. These two operations followed a multi-disciplinary approach and enhanced communication and co-operation between members working on the border posts on both sides of the South African/Mozambican border.

1.17 The CTC is encouraged to see that South Africa, as required by sub-paragraph 2 (a) of the Resolution and as noted at page 13 of its second report, has designed a regulatory system to ensure that hazardous toxic chemical, biological, and radiological materials and their waste products do not fall into the hands of terrorists. In that regard, without compromising any sensitive information, could South Africa provide the CTC with information concerning any programs, special procedures or personnel which it has put in place to provide the appropriate safety and law enforcement responses in the event that any illegally diverted material is detected? The CTC would be grateful to learn the procedures, which South Africa would use to notify other countries, in the event of such an eventuality occurring. If South Africa has such capabilities, would it be able and willing to assist other countries in preparing for such eventualities?

It should be pointed out to the Counter-Terrorism Committee (CTC) that the information contained on page 13 of South Africa's first report to the CTC (S/2001/1281) related to non-proliferation of weapons of mass destruction and though not directly designed for the combating of terrorism, could indirectly contribute to it.

Different Government Departments are responsible for exercising control over materials that could be utilised by terrorists, for example radioactive sources for industrial and medical purposes (Department of Health), source materials for the nuclear industry and radioactive

waste (Department of Minerals and Energy). Each Department has its own regulatory control system and relevant training programmes.

A joint committee to lay down procedures and determine a Work Plan in the event of Biological, Radiological, Nuclear (BRN) incidents is in the process of being established. Both the South African Police Service and the South African National Defence Force are part of the committee. A Nuclear Facility Protection Committee is also currently working on guidelines for the security and protection of nuclear facilities. This includes the transport, storage and control of nuclear material.

Pending the finalisation of these processes, South Africa would use the standard communication channels provided for under the various related regimes and treaties to notify other countries that any illegally diverted material is detected.

South Africa would consider assisting other countries in training if provided for under specific bilateral agreements with the relevant countries.

1.18	The CTC is aware that South Africa may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of South Africa's response to these matters, as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

The public summary of the Mutual Evaluation Report of the Financial Action Task Force ("the FATF") which was compiled on the occasion of South Africa's joining of the FATF is appended as **Addendum B**. This report reflects the findings of an assessment of South Africa's AML/CFT regime carried out by a team of experts in April 2003.

2. ASSISTANCE AND GUIDANCE

2.1	The CTC wishes to emphasize once more the importance it attaches to the provision of assistance and advice in connection with the implementation of Resolution 1373.

The South African security community – in expressing its concern with the domestic and international terrorism threat and in confirming its commitment to the fulfillment of South Africa's international counter-terrorism obligations – acknowledges the vital role of intelligence in combating terrorism. In this regard the security community acknowledges and continuously gives effect to the critical importance of intelligence co-operation with its counterparts in other countries in respect of information sharing and skills development.

2.2	The CTC notes that the Government of South Africa did not request technical and financial assistance to further enhance its capacity to deal with terrorist related risks.

The Government of South Africa will inform the CTC of any requirements for technical and financial assistance as these are identified.

2.3	At this stage of its work, the CTC will focus on requests for assistance that relate to "Stage A and B" matters. However, the assistance to be provided by one State to another on any aspect of the implementation of the Resolution is a matter of agreement between them. The CTC would be grateful to be kept informed of any such agreements and their outcome.

The South African Government will inform the CTC of any bilateral agreements regarding assistance on "Stage A and B" matters as and when they are entered into.

LIST OF ADDENDA

ADDENDUM A: South African Citizenship Act, 1995 (Act No. 88 of 1995)

ADDENDUM B: Public Summary of the Mutual Evaluation Report of the Financial Action Task Force (FATF)

ADDENDUM C: Electronic Communications and Transactions Act, 2002 (Act No.25 of 2002)